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JOHN R. NOGUEZ
ASSESSOR

February 27, 2012

The Honorable John Chiang,
State Controller
300 Capitol Mall, Suite 1850
Sacramento, CA 95814

Dear Honorable John Chiang:

RULE 474

I would like to take this opportunity to voice my support for Rule 474 and its expressed intent regarding the proper appraisal unit when measuring declines in value in the assessment of oil refineries. Our office has long supported this rule in both the promulgation process as well as in its application over the last four years it has been in effect.

For refineries, it is my opinion that this rule is certainly the required interpretation of Revenue and Taxation Code Section 51(d) which states: "... 'real property' means that appraisal unit that persons in the marketplace commonly buy and sell as a unit, or that is normally valued separately." It is also consistent with Rule 324(b), in the context of assessment appeals that states that "An appraisal unit of property is a collection of assets that functions together, and that persons in the marketplace commonly buy and sell as a single unit or that is normally valued in the marketplace separately from other property, or that is specifically designed as such by law."

I also believe that Rule 474 is in harmony with the Board's adoptions of Rules 468 (Oil and Gas Producing Properties), 469 (Mining Properties) and 473 (Geothermal Properties).

While these last three property types are clearly extractive industries, they also bear similarities to refineries in that all of them, refineries included, are land and fixture intensive, immovable and fixed in place, not economically convertible to another use, and nearly impossible or difficult to duplicate in the crucible of today's political and economic climate.

In short, all the above characteristics amply demonstrate that just as no one would be interested in buying the rights to the land of an oil producing, mining, or geothermal property separately from the fixtures which are necessary to operate it, no one would buy a refinery for only its land or only its fixtures, satisfying the requisite condition defined in Revenue and Taxation Code Section 51(d) that would prescribe valuing the fixtures in a refinery as part of the appraisal unit. This is in marked contrast to the vast majority of other types of commercial-industrial fixtures

that are sold separately from the land and structures, that are normally valued separately and hence, do constitute a separate appraisal unit for property tax assessment purposes.

And while this describes all the above-mentioned property types, it is not necessarily the case for a cannery, an amusement park, a brewery, a manufacturing plant, or countless other heavily fixturized properties.

Last, I want to reiterate a point that was made at earlier Property Tax Committee meetings on this rule. That is, the expiration of Rule 474 would be giving a tax break to oil companies that is not enjoyed by the homeowner. With single family homes, the entire property is treated as a single appraisal unit because that is how the market most commonly treats the property. This should also be the case for the refinery.

I would also like to emphasize that for any refinery that does not share the above characteristics, the rebuttable presumption provision of Rule 474 is applicable.

For all the above reasons I have been and remain in strong support of the rule, and disagree that it is in conflict with Revenue and Taxation Code Section 51(d).

All that having been said, if the Board of Equalization decides for its own independent reasons not to appeal the current appellate decision on this rule to the California Supreme Court we will understand, accept, and support that decision as well.

Very truly yours,

A handwritten signature in dark ink, appearing to read "J.R. Noguez", with a long, sweeping horizontal line extending to the right.

John R. Noguez

JN:EH:ON

c: Members, State Board of Equalization